IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1103 OF 2005

- -

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

- -

Mr. S.S.Patwardhan for the appellant.

Mr. Surel Shah for respondent Nos. 1 to 5

CORAM : ANOOP V. MOHTA,J.

DATED : 9th July, 2007

P.C.

1. In a suit for specific performance after considering the evidence and material placed on record, both the courts came to the conclusion that there was no such agreement to sale for consideration of Rs.17,000/- in respect of the suit property. Both the Courts, therefore, come to a further conclusion that there was no earned money paid to the deceased. In view of this, the further issues regarding the readiness, willingness and

forsible dispossession need no further discussion, as the foundation of the suit for specific performance itself, could not be proved by the appellant/ plaintiffs.

2. In such cases, the subsequent purchaser’s sale or purchase based on the document executed in favour of the such purchaser cannot be faulted with. The reasoning given by the courts below, therefore, cannot be said to be perverse or contrary to the facts and material on record.

3. Resultantly, the decree for specific performance and possession of the suit property as dismissed and confirmed by the Appellate Court, also need no interference. The Second appeal is, accordingly, dismissed.

[ANOOP V. MOHTA, J.]